



# PUBLIC NOTICE

**Federal Communications Commission**  
**445 12th St., S.W.**  
**Washington, D.C. 20554**

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**DA 05-1095**  
**Released: April 15, 2005**

## **WIRELINE COMPETITION BUREAU GRANTS CONSENT FOR TRANSFER OF CONTROL OF BERKSHIRE TELEPHONE COMPANY TO FAIRPOINT COMMUNICATIONS, INC.**

### **WC Docket No. 03-184**

Pursuant to section 214 of the Communications Act of 1934, as amended, 47 U.S.C. § 214, and sections 0.91, 0.291, and 63.03 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 63.03, the Wireline Competition Bureau (Bureau) approves the application to transfer control of Berkshire Telephone Company ("Berkshire") to Fairpoint Communications, Inc. ("Fairpoint").<sup>1</sup> On August 25, 2003, the New York Public Service Commission filed comments requesting that the Bureau delay action until after the NYPSC issued its final decision on the state application for merger approval.<sup>2</sup> In an Order issued on March 18, 2005, the NYPSC approved the acquisition subject to several conditions.<sup>3</sup>

The Bureau finds, upon consideration of the record,<sup>4</sup> that the proposed transfer will serve the public interest, convenience and necessity, and therefore

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<sup>1</sup> See *Domestic Section 214 Application Filed for Transfer of Control of Berkshire Telephone Company to Fairpoint Communications, Inc.*, WC Docket No. 03-184, Public Notice, DA 03-2638 (rel. Aug. 11, 2003).

<sup>2</sup> See Letter from Dawn Jablonski Ryman, General Counsel, NYPSC to Marlene Dortch, Secretary, Federal Communications Commission, WC Docket No. 03-184 (filed Aug. 25, 2003).

<sup>3</sup> See Letter from Gerard J. Duffy, Counsel for Fairpoint Communications, Inc. and MJD Ventures, Inc. to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket No. 03-184 (filed Mar. 18, 2005).

<sup>4</sup> On April 5, 2004, the Transferee, Fairpoint Communications, Inc. filed a related transfer of control application with the Commission. See *Domestic 214 Application Filed for the Transfer of Control of Fairpoint Communications, Inc.*, WC Docket No. 04-149, Public Notice, DA 04-1076 (rel. Apr. 22, 2004). The Commission granted that application on May 24, 2004. See *Notice of Streamlined Domestic 214 Application Granted*, WC Docket No. 04-149, Public Notice, DA 04-1444 (rel. May 24, 2004).

grants the requested authorization.<sup>5</sup> Pursuant to section 1.103 of the Commission's rules, 47 C.F.R. § 1.103, the consent granted herein is effective upon the release of the Public Notice. Petitions for reconsideration under section 1.106 or applications for review under section 1.115 of the Commission's rules, 47 C.F.R. §§ 1.106, 1.115, may be filed within 30 days of the date of this Public Notice.

For further information, please contact Tracey Wilson-Parker, at (202) 418-1394, or Kimberly Jackson at (202) 418-7393, in the Competition Policy Division, Wireline Competition Bureau.

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<sup>5</sup> See *Joint Applications of Global Crossing Ltd., and Citizens Communications Company for Authority to Transfer Control of Corporations Holding Commission Licenses and Authorizations Pursuant to Sections 214 and 310(d) of the Communications Act and Parts 20, 22, 63, 78, 90, and 101 of the Commission's Rules*, Memorandum Opinion and Order, 16 FCC Rcd 8507, 8511-14 (CCB/IB/CSB/WTB 2001) (granting transfer of control involving incumbent LECs with adjacent exchanges where merger would provide service efficiencies).